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ABSTRACT

This paper presents the views of a Minnesota State educational administrator policy. Issues discussed include: (1) Federal and State regulations: (2) enrollment projections: (3) collective bargaining procedures: (4) local school district autonomy: (5) the influx of Asian and Spanish speaking minorities into the State: (6) the distribution of teachers among different categories of students, and the effects of Public Law 94-142: (7) affirmative action: (8) teacher tenure and termination: (9) teacher pupil ratios: and (10) school community relationship. The author concludes with recommendations for improving policies in the areas of staff procurement, distribution of staff by organization, staff development and employee relations. (APM)

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TEACHER PERSONNEL POLICIES

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There are four major functions concerning teacher personnel policies. The first is staff procurement. In each district somebody has to do manpower planning and recruiting. There is a need to identify the number and kinds of employees needed and get them into the system. They have to then do recruiting in unbiased ways to be in compliance with federal and state laws.

The second major function is staffing the organization. This function deals with how you place your people, how you transfer your people, how you promote your people, and how you separate your people. It is often reflected in the kinds of employee regulations the governing board has adopted as policy; these are what put the employee in the system, govern employee behavior while he or she is in the system, and remove the employee from the system.

The third major personnel function where governing boards have to have policies is staff development. This function deals with orienting new employees to the system and training intermittently to maximize their contribution. Staff development also includes supervision and counseling needed while they are functioning in the system. The staff development function relates to getting the maximum contribution from the employee in the system.

The fourth major function is employee relations. There is a need for policies that spell out salary, benefits, and how these things are

determined. Also policies are needed to cover communications with employees, grievance procedures, and appeals procedures. This function provides for employee needs for security, sense of fairness about the way they are supervised, handled and treated, as well as employee needs for recognition.

The issues to be discussed here reflect the perceptions of one person from a state level point of view in a state where neither the Board of Education nor Department of Education has any direct authority over the hiring, firing, and the management of staff in local districts. Personnel policies are reserved for the local board of education in the state of Minnesota.

The most direct impact of federal legislation tends to be the affirmative action, civil rights kind of legislation. Any organizational entity holding a federal contract that exceeds $50,000 per year must comply with all of the affirmative action and civil rights legislation in all of its personnel functions. That is the biggest federal impact on actual personnel practice in local school districts. The intent of the legislation is clear, but the procedure for implementation is not clearly spelled out. The rules that have been generated to accompany civil rights and affirmative action federal legislation are written in such obscure language that we find people in our school districts ask a lot more questions about the rules than they do about the intent of the law. The rules are complex, contradictory, and difficult to comply with.

State legislation on teacher personnel issues is very clear; procedures for implementation are also clearly spelled out with procedures for equitable personnel practices. The statutes define a qualified teacher and spell out specifically how a teacher becomes licensed to practice in the state of Minnesota. They also contain detailed sections on hiring employees, probationary periods for employees, dismissing employees, and termination of contract prior to and after the probationary period. They deal with retirement, grounds for termination, unrequested leaves of absence with and without pay, pre-service and in-service education, transfers, promotions, and separations. All of these things are bargainable district by district. That means we have more than 500 local bargaining units where these provisions are negotiated at the local level. Consequently, the practices are spelled out in very tightly drawn, written contracts. In fact, the personnel statutes are far more detailed than most statutes tend to be.

If there are any major conflicts between federal and state policies, they have not been brought to our attention. The teachers' unions and all of their field representatives have informed the public (our collective bargaining law is called the Public Employee's Labor Relations Act) so well for so many collective bargaining sessions that it is very clearly communicated. As a matter of fact, we have very few cases of litigation about personnel policies. There are not many difficulties in knowing who is to do what, when, where and for whom, but many

managers complain about collective bargaining and about teachers' unions having encroached on managerial prerogatives. My observation is that the process works, not only to the benefit of union members, but also to the benefit of managers. That is, when you spell out in a contract very clearly who can do what, with whom, when, where and how, then managers--if they manage in accordance with that contract--become more proficient. While the procedures are clear, I become worried about the adversarial relationship they establish between teachers and administrators.

In the early days of collective bargaining some local boards bargained away some managerial prerogatives. Once you give something away in a collective bargaining process it is next to impossible to go back to the bargaining table and take it back. For example, there are a few contracts where local Boards of Education, as a result of inexperience in their early sessions of collective bargaining, negotiated class size. If you negotiate class size, you really have given away managerial prerogatives. You have given up prerogatives because such limits affect how one can distribute students to employees.

Policy implementation does require resources to be reallocated. We have experienced several years of declining student enrollment and staffing changes. Some staff within certain specialties have been displaced, but there have been major efforts made to retrain staff and place them in areas where there are shortages. Some people have been

very unhappy about that. If you are a displaced individual, you are unhappy about it. We have had major shifts within the education cadre in the state of Minnesota.

The number of teachers employed in school districts today is not less than it was at the beginning of the decade in spite of the fact that during the seventies we have taken about an 18% decline in the number of students enrolled. There have been shifts within the system. For example, there has been a significant increase in the number of teachers dealing with handicapped children and also in meeting the special needs of youth in vocational programs. Resources have been reallocated, but there are no fewer jobs overall. In fact, a greater number of teachers are now employed than at the beginning of the decade.

There is authority for a local Board of Education to reduce staff when the number of students, the dollar resources available, or the educational needs within the system indicate the need for a staff reduction. It is not the existence of policy that causes the problem. In actual implementation, it is the community perception and politics within that local community that force reallocation of the resources. For example, in a typical small town in Minnesota where fewer than 200 students are enrolled, one might find a teacher who has been teaching there for 20 years or more. If the Board of Education moves to terminate the employment of that teacher or change the teacher's assignment, the community frequently will just not let them do it. Community acceptance of some reallocation is frequently the greatest problem, not any policy that is written.

Policy allows for that kind of reallocation, but actually doing it is difficult.

If one studies the statutes carefully and abides by the negotiated contract, one should not run into legal problems in application. Local districts tell us they could use more assistance than they are getting in an area where neither the statute nor the contract deals with it. Salary, benefits, grievance procedures, reallocation, and termination are dealt with in the contract. Staff development is not adequately dealt with in some contracts. Staff procurement is not adequately dealt with in some contracts. If one of the four personnel functions is not dealt with either in statute or in contract, that tends to raise the most questions. For example, there is a concern now about lack of opportunities for certain protected classes to get into administration in education or a lack of opportunity for protected classes to break into the teaching ranks and get through the probationary period. Staff reductions occur in inverse order of hiring. Protected classes complain they are most recently hired and first fired. People ask, "Why are there no women who are department heads? Why are there no Chicanos who are X, no blacks who are Y, no Indians who are Z?"

Affirmative action policy is the area in which we get the most questions. We do not have adequate resources to give districts the assistance they need. There is an unfulfilled need for technical assistance regarding affirmative action even here in Minnesota where things are in relatively

good condition. More than 60% of the districts in the state enroll fewer than 700 students. When you look at the central office staff of the small districts, you frequently find an overworked superintendent and one girl Friday who does the bookkeeping, correspondence, answering of the telephone, and a host of other duties. The superintendent is all things to all people. Frankly, in their training programs, superintendents do not get much training in personnel. They tend to learn it on the job the hard way. They stumble across the need for comprehensive personnel policies after the fact or after they have stumbled into a bad experience. There is definitely a need in this state to organize systematic technical assistance to local superintendents in all the personnel functions.

Personnel policies in relationship to all personnel functions are not comprehensive enough in a forward-looking manner. If one drew a random sample of 60 local school districts in the state of Minnesota and asked, "Does your board have a written policy in X, Y, and Z?" the answer would be "No" unless it was specifically required in statute or in the collective bargaining process. The collective bargaining process does not cover all personnel functions, and very few districts have a personnel office. A few large districts do. These would include Minneapolis, St. Paul, Duluth, and Rochester. They have personnel directors or they have an assistant superintendent for personnel. Where you have a staff member who has been trained in personnel, the district is likely to have formally adopted policies. In most small districts you would not find a complete, comprehensive array of personnel policies adopted by the local board of education.

The career path to the superintendency tends more frequently than not to be a series of administrative posts. The superintendent accumulates experiences in personnel rather than being trained in personnel. The knowledge and expertise the superintendent acquires is a function of chance, not of training. The weakest personnel function is that of manpower planning and procurement. For example, it is a myth that because of the impact of declining student enrollment we have a teacher surplus. We have severe teacher shortages in certain disciplines, but the popular perception is that teachers are losing their jobs and they are pounding the pavement looking for jobs.

Everybody watches the legislative arena very, very closely. The legislature notes that the number of students is declining, and asks, "Why is the cost of education going up?" Everybody talks about decline. We have 45 school districts now that are growing rapidly but because most districts are declining, it is difficult to get anybody to believe that we have 45 that are rapid growth districts. Most people get the idea that the decline applies equally to all districts and a myth grows up. On the whole we have in the state an appropriate number of staff with exceptions in some disciplines, but there is a distribution problem. For example, we have 37 elementary schools in small, rural communities that do not have a licensed elementary principal. There are unemployed principals in the metropolitan area who are unwilling to relocate to rural towns. We're becoming aware that this department needs to start doing manpower projections and looking at the distribution of manpower

in the entire state. Otherwise, we come upon immediate needs that could have been projected had some central authority been trying to anticipate them.

Projection has become an important function for us here in the department. We have worked out a sophisticated system for projecting enrollment district by district with a high degree of accuracy two to three years hence. We know with a little less accuracy ten years hence, but we are actually projecting enrollments in the 1990's in cooperation with another state office. We will project those enrollments and share it with the local superintendent. We say, "These are the assumptions that we made to arrive at our projections. Do you concur in the projections? If not, please present your case." Sometimes they know something at the local level that we do not know that could lead to an adjustment in the projection. Our projections have been far more reliable than the individual district projections have been. In a small town, if a contractor puts up twelve new homes, the perception is "Our population is increasing--that means we are going to quit losing kids from our school." Other factors are more important than the building of new homes. Our projection techniques include a number of different factors, and the projections are turning out to be far more reliable than local community perceptions. The manpower projection and staffing analysis could be related systematically to enrollment projections at the state level. We are not emotionally bound up in some of the implications as are those in small communities.

The state department renders a lot of technical assistance to local school districts in long-range comprehensive planning, evaluating and reporting. We have been doing that now almost four years. The staff are oriented to go into a district and do whatever they can to assist in long-range planning for meeting the needs of students, teachers, and other staff. Every local district is required by law to generate a comprehensive educational plan which spells out all the board policies and educational goals, instructional plans, staffing projections, student enrollment projections, financial projections, and facilities projections. We rendered three years of technical assistance to get districts into that planning mode and now they do an annual update of that plan.

The state does not directly monitor compliance with policies, even those spelled out in statutes. Because of the Public Employee Labor Relations Act there is sufficient monitoring going on within local districts between the bargaining representatives and the managers of the school districts. Actually it gets monitored by exception; somebody sues. We do not systematically monitor personnel policies. Given the potential for conflict in today's world, I am surprised at how few problems actually go to litigation. There appears to be a kind of conciliation process that takes place at the local level.

In the majority of states the criteria and standards for licensing educators, for approving teacher preparation programs, and criteria for revoking a license are generally under the control of the state board of education. That is not true here. There is a Board of Teaching separate from the State Board of Education. It has the authority to prepare the criteria

and standards for issuing licenses, the authority for preparing a professional code of ethics for teachers, monitoring and policing the code of ethics for teachers, and for approving teacher preparation programs in colleges and universities. It has the authority to revoke licenses for causes that are explicitly laid out in statutes related to teachers. The state board of education has those authorities in relationship to educational administrators and to a few other personnel like coaches, guidance counselors, school nurses and some other support service kinds of personnel. The state board of education has the authority to handle their licensing, their training, their retraining, and revocation of licenses.

There are few implementation problems related to teacher tenure and termination. It is very clear how tenure is achieved. It is called the continuing contract here instead of tenure. I see no real problems in relationship to tenure or continuing contract rights, but the truth is that there are very few local boards of education, not only in this state but in any other state, that have policies spelling out specifically how they are going to evaluate employee performance, not just teacher performance but administrators, supervisors, janitors, maids, everybody else. We talk a good evaluation game in education but until such time as we do something about candid evaluation of staff performance, that is all we are doing--just talking. We evaluate how students perform, but we really do not evaluate how we as professionals perform. There are lots of problems there; there is a human reluctance to engage candidly in evaluation of performance. There are some districts, and they appear to be

the larger districts in Minnesota, where circumstances and former litigation have convinced them that they need real professional evaluation procedures so they have adopted policies regarding such evaluation.

The state does not set salary and promotion requirements; they are determined through 500 local bargaining units. The key issues in teacher and board negotiations take place at the local level, and we do not keep track in this department of how all those issues get settled. But the Minnesota School Boards Association does, and it shares this with us once the contract is signed. They share with us the trends in bargaining.

One of the key issues in teacher and board negotiations has been teacher/pupil ratios. Teacher/pupil ratios in Minnesota are already significantly below those allowed by rule and the collective bargaining process is trying to drive them still lower. I think we had 33 or 34 violations of teacher/pupil ratios in the last year. Where a very small town had one child too many for its first grade class, economically you had to allow that one child overage because there is simply no other way to distribute it. So teacher/pupil ratio, for the most part, does not exceed the ratios that are laid out in state board rules right now.

Some few local boards several years ago started bargaining on class size. They are regretting now that they ever bargained on it and have put out the word to other districts that if you have never bargained on class size, take the position of not bargaining. The big discussion that is going on

right now is whether or not class size is bargainable. For the most part, the local boards that have not bargained on it are now refusing to do so. There are state board rules on maximum class size and, for the most part, local districts are in compliance with those rules.

Sabbaticals are offered and negotiable. Sabbaticals are authorized in law for teachers and the pay can be negotiated in the contract with the local board of education. It tends to be about fifty percent pay and the sabbaticals tend to occur somewhere between every fifth to seventh year. Sabbaticals are not usually authorized for administrators which is interesting. Administrators do not collectively bargain. They do seek sabbaticals and these get negotiated on an individual basis between a principal and the superintendant and the local board. Administrators do get some sabbaticals but there is not the force of rule or collective bargaining process behind it.

Financial incentives tend to be fairly fully used during the first dozen or so years of a person's career. Then they tend to do those things that are required by the continuing education rules. If you have been active for thirteen years, you are probably past the point where you have made a decision to go for further graduate training or further specialist training. You either have done it or you have decided that you are never going to do it. Economically, it is not feasible to keep on escalating salary beyond minimal cost of living increases. The state cannot afford it. A teacher can enter with a B.A. in most districts in this state and will

have reached the maximum benefit of incentives in about thirteen years. After that, it is just a matter of continuing education reform. Those who are still around after thirteen years tend to stay. Those who are going to exit from the system tend to get out within the first four to five years. They do not wait for all the incentives to work. The incentives tend not to relate to whether one does or does not stay active in this profession. The average age of teachers is increasing. The younger teachers tend to be opting out of the system. Since younger teachers are generally paid lower salaries, not only is the teaching profession aging, it is becoming increasingly expensive. It is labor intensive and dollar intensive.

I do not mean to imply that educators are not serious professionals. Some do continually seek renewal experiences whether or not anybody provides the incentive for it. I cannot claim, however, that the majority of teachers seek renewal without incentives and requirements.

There is some teacher movement from one specialty into another, but they are not big leaps, for the most part. Teachers tend to be more committed to their own instructional goals than to any school or district goals. We think the comprehensive planning process we have in Minnesota is beginning to produce a sense of school goals and district goals that the teachers' instruction must address. If the teachers have had ample opportunity to participate in the planning of those goals, they acquire a sense of ownership. If somebody in the central office writes them and sends them through inner-office mail, they are thrown in the trash can. If there is a mutual sense of ownership, then teachers will address those

goals. If they appear to have been written in isolation and handed to them, they will almost defiantly refuse to address them.

There is a code of professional ethics for teachers which was taken to public hearing by the Board of Teaching. There are some sanctions for the violation of that code of ethics, and the authority for exercising those sanctions is the Board of Teaching. A complaint has to come to the Board of Teaching from a local board member, a superintendent, a colleague within the profession, a parent, or some member of the public. It must allege in writing that a professional has violated the code of ethics. Then the Board of Teaching is empowered to investigate and make a determination. It has the authority to revoke a license for a violation of the code. That does not happen very often, but they have revoked a couple of licenses in recent years on the basis of a written complaint about a violation of the code. The fundamental premise in the code of ethics is that every professional must act within the best interest of the learner. In addition, one should act within the best interest not only of the learner but also of professional colleagues.

Serious staffing shortages have been created by Public Law 94-142. While most districts were fairly well along at beginning to meet the needs of their handicapped children, we did not have in Minnesota many regular classroom teachers who had the training to deal with mainstreaming handicapped children in the classroom. That has been our biggest difficulty with the mainstreaming concept. We buy it philosophically, and we have been spending some three million dollars a year to train the

regular classroom teacher to cope with dealing with the handicapped child. It makes some teachers very uncomfortable if they have never had any experience with that and some of them resent being made to do this. Both Title One and PL 94-142 have been programmatically good in helping us meet the needs of children but implementing them has presented some real operational difficulty.

Problems in relation to the impact of desegregation legislation have been limited to very few sites in Minnesota, simply because of demographic characteristics. There are few minority persons in our state. They tend to be concentrated in the large cities, so that we had relatively intense desegregation difficulties in Minneapolis, St. Paul, and Duluth. We've had few problems elsewhere.

That has begun to change with the influx of heavy Asian immigration into the state. The U.S. Department of State was unable to project with any degree of accuracy how many Asians we might be receiving. We have received a lot of Asian families and a heavy Russian immigration. While our desegregation problems have been restricted primarily to cities of the first class, we are now getting a greater number of sites where we are having problems. For example, St. Paul had all of its schools in compliance with the desegregation guidelines and had done a good job of coming into compliance. Then they received over 1700 Asian children who, for desegregation purposes, are considered a minority, and they had no control over where these Asian families went to live. They tended to live in clusters around large churches in communities who were sponsoring

them into this country, and that meant an unexpected influx of 1700 children just before the beginning of school which threw the district out of compliance. Changing attendance patterns rapidly in response to unanticipated events is very difficult, but schools are striving valiantly to rise to the challenge and meet the needs of those children.

We discovered through a recent analysis that we have a hundred and thirteen different language groups of children enrolled in Minnesota schools. We have a critical shortage of manpower to deal with the whole Southeast Asian immigration stream. It is causing us far more difficulty than the former protected classes in desegregation.

Also, we have had another shift recently; the largest minority group in Minnesota is the Spanish-speaking minority. Many of them settled out of the migrant stream. They have become politically astute, achieved greater standing and have bright leaders emerging. In addition, they are becoming increasingly militant about the provision of educational services both in the native language and English, and they are definitely well-organized politically to demand the preservation of their culture.

Some of the legislators took the position that we should deal with this problem through English as a second language, since we had made no particular commitment at any point in history to preserve the culture of the

Danes, Norwegians, Swedes, German Lutherans and other minorities. Some argues we should teach them English as a second language so they can benefit from the educational opportunities here and leave it to other social institutions to maintain their culture. That was the position they took initially. We now have a legislatively adopted policy aimed at preservation of one's native language and culture in addition to proficiency in English. We're still having problems in accomplishing that.

I suspect that community perception about school personnel in small communities has more impact on implementation than any law or rule that anybody ever wrote, Because Minnesota is still a rural, agrarian society, the public school is frequently the largest employer in the town. The school is frequently the social center of the community; it is the community's visible sense of identity. It is frequently the largest investor in the local bank in that community. If anybody starts tinkering with their schools or with a favored teacher who has been a member of that community for many years, the community response to a personnel decision is negative. It probably leads to decisions that are in the best interest of that human being whom we call teacher, but it doesn't always lead to decisions that are in the best interest of the children.

Recommendations

The change I would like to see would require every local board of education in this state or any other state to sit down and examine its policy from a very broad, comprehensive personnel point of view. The idea would be

to determine whether it has policies that have just happened over time in response to isolated situations, or if it has a forward-looking well planned set of personnel policies that take care of the major personnel functions. As noted above, most districts do not have what can be called a thoughtful, comprehensive set of personnel policies and procedures. They tend to have discrete policies to take care of one kind of thing, because at some time or another they've had to deal with it. They tend to have discrete policies about those things that are negotiated in collective bargaining, but that gives short shrift to some major personnel functions.

Some of the things I see getting short shrift in the world of education from the personnel point of view are: widespread lack of consciously adopted affirmative action policies in manpower planning, recruiting, and selection by local boards of education. One hears from a lot of people in local districts in Minnesota that there is a requirement in law that in the event of staff layoffs or staff reduction, it must occur in the inverse order of hiring within a given discipline. They will say, therefore, since we have been hiring protected classes more recently, they must be the first to go. That is not the case at all, because there is another law that provides if a local board of education has adopted an affirmative action policy for recruiting and selecting its personnel, and if that policy is in writing, the board may follow its affirmative action policy rather than follow the law for staffing terminations. Yet I know of only four or five local boards of education which have adopted a written

affirmative action policy. We have here a Catch 22 situation. If you do not have an affirmative action policy for identifying, selecting, recruiting, and staffing, you just follow the laws in straightforward fashion. If you have an affirmative action policy and plan, then you have the power to change your plan. It seems that some local boards of education prefer not to adopt an affirmative action policy, because they would have to make decisions that are now made for them by law. There is a real weakness in a lack of affirmative action plans in writing, consciously adopted by local boards of education.

There are probably adequate policies in place for placement, transfer, promotion, separation, and employee relations; they appear in the contracts. Staff development is less adequately taken care of by adopted board policies--less adequately taken care of, but taken care of to some degree. Employee relations, salary, benefits, grievance procedures, and the like appear to be well taken care of, again, because they are in the master contract required by law.

We have our greatest needs in consciously adopted policies for staff procurement up front and for staff development once the staff is hired. It is my experience that there are the two areas where, state by state, organization by organization, you find the greatest weaknesses. If I had sufficient resources to render technical assistance to local school districts, I would target technical assistance on personnel policies in those areas.

Somebody ought to be paying more attention to supporting local boards in getting personnel policies and procedures spelled out, because the more clearly they are spelled out, the less likely we are to have conflict. Clearly delineated policies and procedures increase the probability of having healthy functioning staffs making maximum contribution to the whole effort. In our own department, unless we have clear policies and clear procedures, things tend to go awry. We have a hard time keeping our staff morale up unless policies and procedures are clear.

My major recommendation calls for a complete reconsideration of the Public Employees Labor Relations Act. While the aims of the act are desirable, several unanticipated negatives have emerged from it. Too many collective bargaining units are engaged in the process. The time, human energy, and cost of conducting the process in 500 or more units has become prohibitive. Moreover, it has established an adversarial relationship between administrators and teachers which is damaging to the profession. The psychological impact of having administrators and teachers on opposite sides of emotionally volatile issues during collective bargaining makes it difficult for them to team in practice to meet the needs of learners.

It might be possible and desirable to retain the benefits of collective bargaining, to lower the cost of the process, and to restore amicable relations by moving to regional or state-wide bargaining units. Removing

the locus of conflict from each community might obtain reasonable benefits for teachers, lower cost of bargaining and litigation, and make it possible for principals and teachers to become again professional colleagues in attending to the needs of learners.